

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



**TRANSCRIPT OF RECORD.**

---

**Court of Appeals, District of Columbia**

**JANUARY TERM, 1900.**

No. 968.

---

**No. 11, SPECIAL CALENDAR.**

---

JOHN G. SLATER, APPELLANT,

*vs.*

J. LOUIS WILLIGE.

---

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

---

**FILED FEBRUARY 14, 1900.**

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

JANUARY TERM, 1900.

No. 968.

No. 11, SPECIAL CALENDAR.

JOHN G. SLATER, APPELLANT,

*vs.*

J. LOUIS WILLIGE.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

INDEX.

	Original.	Print.
Writ of certiorari.....	1	1
Attachment on judgment .....(omitted in printing) ..	2	—
Undertaking on appeal.....( “ “ )..	3	—
Notice of appeal.....( “ “ )..	4	—
Notice of appeal.....( “ “ )..	5	—
Affidavit of J. Louis Willige.....( “ “ )..	6	—
John G. Slater.....( “ “ )..	11	—
Summons.....( “ “ )..	14	—
Certificate of a justice of the peace on appeal. ....	15	2
Summons on appeal from justice of the peace.....	16	3
Motion to dismiss appeal.....	17	3
Order overruling motion to dismiss appeal.....	18	4
Order allowing payment of marshal's fee, &c. ....	19	4
Clerk's certificate.....	20	4
Directions for printing record.....	21	5

# In the Court of Appeals of the District of Columbia.

---

JOHN G. SLATER, Appellant, }  
                                  *vs.* } No. 968.  
J. LOUIS WILLIGE. }

---

1-14      UNITED STATES OF AMERICA, *ss*:

The President of the United States of America to the honorable the justices of the supreme court of the District of Columbia, Greeting:

Being informed that there is now pending before you a suit between John G. Slater and J. Louis Willige, law, No. 43416, which suit was removed into the said supreme court of the District of Columbia by virtue of an appeal from Charles S. Bundy, a justice of the peace in and for the District of Columbia, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said supreme court of the District of Columbia and removed into the Court of Appeals of the District of Columbia, do hereby command you that you send without delay to the said Court of Appeals, as aforesaid, the record and proceedings in said cause, so that the said Court of Appeals may act thereon as of right and according to law ought to be done.

Seal Court of Appeals,      Witness the Honorable Richard H. Alvey,  
District of Columbia,      Chief Justice of the Court of Appeals of the  
                                  District of Columbia, the 2d day of February,  
                                  in the year of our Lord one thousand nine hundred.

ROBERT WILLETT,  
*Clerk of the Court of Appeals of the District of Columbia.*

[Endorsed:] Court of Appeals, District of Columbia. January term, 1900. John G. Slater *vs.* J. Louis Willige. Writ of certiorari.

15      *Certificate of a Justice of the Peace on Appeal.*

Filed Oct. 25, 1899. J. R. Young, Clerk.

In Justice's Court of the District of Columbia, before C. S. Bundy,  
a Justice of the Peace.

JOHN G. SLATER, Plaintiff,	}	No. 11863, 43416. Action for Debt
vs.		for Money Had and Received, for
J. LOUIS WILLIGE, Defendant.		\$250 & Interest.

## Proceedings.

Date.

1899.

- October 2. Issued summons to Constable Callahan, returnable Oct. 4, 10 a. m.
- " 4. Return day extended to Oct. 5, at same hour, and defendant served.
- " 5. Parties appear and trial had ; judgment for plaintiff for \$250 debt and interest from May 25, 1898, and \$1.80 costs ; appeal noted by defendant.
- " 13. Judgment entered to the use of Mattie R. Slater.
- " " Issued attachment to Constable Callahan upon the National Bank of Washington, garnishee.
- " 14. Garnishee answers, \$51.03 credits.
- " " The sum of \$51.03 in hands of garnishee condemned to the use of this judgment.
- " 16. Appeal perfected, with Thomas Wilson surety.

C. S. BUNDY, J. P. [SEAL.]

DISTRICT OF COLUMBIA, }  
County of Washington, } ss :

I, Charles S. Bundy, one of the justices of the peace in and for the said county and District, do hereby certify that the foregoing is a true statement from my docket of all the proceedings had before me in the above cause, and that the annexed are all the original papers therein.

Given under my hand and seal this 16th day of October, A. D. 1899.

C. S. BUNDY, J. P. [SEAL.]

Cost paid by plaintiff .....	\$3.70
Cost paid by defendant .....	1.00

[Endorsed:] 43416. On appeal. No. —. John G. Slater, plaintiff, vs. J. Louis Willige, defendant. C. S. Bundy, J. P. Filed Oct. 25, 1899. J. R. Young, clerk. Oct. 18, 1899.

16 In the Supreme Court of the District of Columbia.

JOHN G. SLATER, Plaintiff, Appellee, }  
*vs.* } At Law. No. 43416.  
J. LOUIS WILLIGE, Defendant, Appellant. }

The President of the United States to the appellee, Greeting:

You are hereby commanded to appear in this court within the first ten days of its next trial term, occurring ten days after the judgment of the justice of the peace, to answer the appellant's complaint, and show why he should not have judgment against you thereon.

Witness the Honorable Edward F. Bingham, chief justice of said court, the 25th day of October, A. D. 1899.

J. R. YOUNG, *Clerk*,  
By W. E. WILLIAMS,  
*Assistant Clerk.*

LECKIE & FULTON, *Attorneys.*

[Endorsed:] No. 43416. At law. John G. Slater, appellee, *vs.* J. Louis Willige, appellant. Issued Oct. 25th, 1899. Summons on appeal from J. P. See rule 96, sec. 2. Not served because marshal's fee not paid, the 11 day of Jan'y, 1900. Aulick Palmer, marshal. P.

17 *Motion to Dismiss Appeal.*

Filed Jan. 12, 1900.

In the Supreme Court of the District of Columbia.

JOHN G. SLATER, Appellee, }  
*vs.* } At Law. No. 43416.  
J. LOUIS WILLIGE, Appellant: }

Now comes John G. Slater, appellee in the above-entitled cause, in his own proper person, and, appearing only for the purposes of this motion and for objecting to the jurisdiction of the court, and not for any other purpose, moves the court to dismiss the appeal of the appellant herein, on the ground that the summons issued herein has not been served upon the said appellee, but has been returned by the marshal "not served because fee not paid," as appears by the record.

JOHN G. SLATER, *Appellee*.

Messrs. Leckie & Fulton, attorneys for J. L. Willige, appellant:

Please take notice that I shall ask the action of the court on the foregoing motion, in criminal court No. 2, before Mr. Justice Cole, on Friday, the 12th day of January, 1900, at ten o'clock a. m. or so soon thereafter as the matter can be brought to the attention of the court.

JOHN G. SLATER.

18 Service of copy of the above motion & notice accepted this  
11th day of January, 1900.

\_\_\_\_\_,  
*Attorneys for Appellant.*

Supreme Court of the District of Columbia.

FRIDAY, *January* 12, 1900.

Session resumed pursuant to adjournment, Chief Justice Bingham presiding.

\* \* \* \* \*

The following cases were decided by Justice Cole:

\* \* \* \* \*

JOHN G. SLATER, Pl'ff,	} At Law. No. 43416.
vs.	
J. LOUIS WILLIGE, Def't.	

Upon hearing the plaintiff's motion to dismiss the appeal herein of the defendant on the ground that no service of summons was had upon the plaintiff on account of the fee of the marshal not having been paid, it is considered that said motion be, and the same is hereby, overruled.

19 *Order Allowing Payment of Marshal's Fee, &c.*

In the Supreme Court of the District of Columbia.

JOHN G. SLATER	} At Law. No. 43416.
vs.	
J. LOUIS WILLIGE.	

The appeal in this cause having been properly docketed and the summons for the appellee properly issued, but not served on the appellee because of the non-payment of the marshal's fee therefor, and it appearing to the satisfaction of the court that the failure to pay the same was due to inadvertence, it is this 25th day of January, 1900, ordered that the said appellee do cause his appearance to be entered in this cause within ten days after the service of a copy of this order upon him, exclusive of Sundays and legal holidays, or the case will be proceeded with as in case of default.

CHAS. C. COLE,  
*Asso. Justice.*

20 Supreme Court of the District of Columbia, ss:

I, John R. Young, clerk of the supreme court of the District of Columbia, do hereby certify, in obedience to the writ of certiorari hereto attached and returned herewith, that the foregoing is the complete record and proceedings in the cause wherein John G. Slater is plaintiff and J. Louis Willige is defendant, at law, No. 43416, as filed and recorded in the supreme court of the District of Columbia.



In the Court of Appeals of the District of Columbia.

JOHN G. SLATER, Petitioner, }  
vs. } No. 968.  
J. LOUIS WILLIGE. }

*Stipulation of Attorneys for Petitioner Slater and Defendant Willige as to Certain Facts in Relation to this Cause not Appearing upon the Record as Filed Herein.*

We, the undersigned, attorneys for petitioner Slater and for Willige in the above-entitled cause, hereby stipulate and submit, as part of the record in same, for the court to consider, so far as the court may deem them material, the following statements of fact in relation thereto:

1. That the attachment on the judgment was issued out of the justice of the peace's court while the approval of the appeal bond in said justice of the peace' court was pending.

2. That the return on said attachment was made and a judgment of condemnation of the proceeds entered also while the approval of the appeal bond was pending.

3. That the notice of appeal, wherein the name of and time when Willige would present his surety on the undertaking of appeal, was served upon petitioner Slater, through his attorney of record, and the said undertaking was entered into and submitted for approval, and the same was approved within the ten days as required under rule 93 of the court below.

4. That Willige filed a suit in the equity court below, known as No. —, against the petitioner Slater and the National Bank of Washington, and obtained an order restraining the payment of the moneys so condemned during the pendency of the appeal below.

5. That a copy of the order passed by Justice Cole on January 25, 1900, was duly served upon petitioner Slater on 25th day of January, 1900.

C. A. KEIGWIN,  
C. H. SYME,

*Attorneys for Petitioner Slater.*

LECKIE & FULTON,

*Attorneys for Willige.*

[Endorsed:] No. 968. John G. Slater, appellant, vs. J. Louis Willige. Stipulation of facts not appearing on the record. Court of Appeals, District of Columbia. Filed Mar. 14, 1900. Robert Willett, clerk.



In testimony whereof I hereunto subscribe  
 Seal Supreme Court my name and affix the seal of said court, at  
 of the District of the city of Washington, in said District, the  
 Columbia. 2nd day of February, A. D. 1900.

JOHN R. YOUNG, *Clerk.*

21 In the Court of Appeals of the District of Columbia.

JOHN G. SLATER	} No. 968.
<i>vs.</i>	
J. LOUIS WILLIGE.	

The clerk of the Court of Appeals will please cause to be printed the following parts of the transcript in the above-entitled cause:

1st. The writ of certiorari, p. 1.

2nd. The proceedings before the justice of the peace as certified by him, p. 15.

3rd. The summons issued from the supreme court of the District of Columbia and the return endorsed thereon, p. 16.

4th. The appellee's motion to dismiss the appeal, p. 17.

5th. The order of the court below overruling the said motion, p. 18.

6th. The order entered by the court below on January 25, 1900, requiring the appellee to enter his appearance, p. 19.

7th. Clerk's certificate, p. 20.

C. A. KEIGWIN,  
*Attorney for Slater, Petitioner.*

(Endorsed :) No. 968. Slater *vs.* Willige. Directions for printing record. Court of Appeals, District of Columbia. Filed Feb. 28, 1900. Robert Willett, clerk.

Endorsed on cover: District of Columbia supreme court. No. 968. John G. Slater, appellant, *vs.* J. Louis Willige. Court of Appeals, District of Columbia. Filed Feb. 14, 1900. Robert Willett, clerk.